

Budget 2020

Proposed Direct Tax Reforms



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Tax Rate

1. New tax rate for Individual and HUF

A new Section 115BAC has been proposed to be inserted to provide an alternative to Individuals and HUFs to pay tax at lower rates. Option under this scheme can be exercised by every individual or the HUF for every previous year. However, an individual and HUF having a business income, the option once exercised for a previous year shall be valid for that previous year and for all subsequent years. The income under this scheme shall be computed without claiming any deduction under Chapter VI-A (except Sections 80CCD or 80JJAA) or Section 24 or exemptions.

Total Income (₹)	Rate
Upto ₹ 2,50,000	-
₹ 2,50,000 to ₹ 5,00,000	5%
₹ 5,00,000 to ₹ 7,50,000	10%
₹ 7,50,000 to ₹ 10,00,000	15%
₹ 10,00,000 to ₹ 12,50,000	20%
₹ 12,50,000 to ₹ 15,00,000	25%
Above ₹ 15,00,000	30%

The concessional tax rates under the scheme are given as above.

2. Concessional tax rates for co-operative societies

A new section 115BAD has been proposed to be inserted to provide an option to the co-operative societies to pay tax at the rate of 22% plus 10% surcharge and 4% CESS. The income of such societies shall be computed without claiming specified exemption, deduction or incentive available under the Act. Provisions of Alternate Minimum Tax (AMT) shall not apply to such co-operative societies.

3. Insertion of Section 115BAA and 115BAB

The Taxation Laws (Amendment) Act, 2019 inserted section 115BAA and section 115BAB to provide domestic companies with an option to pay tax at the concessional tax rates. The Finance Bill, 2020 proposes that companies opting for the concessional rates shall not be allowed a deduction under any provisions of Chapter VI-A other than section 80JJAA.

Further, Section 115BAB shall include within its ambit the companies engaged in the business of generation of electricity.

4. Abolition of Dividend Distribution Tax (DDT)

Dividend from the domestic company or income from units of a mutual fund shall be taxable in the hands of shareholders or unit holders at the applicable rate and the domestic company or mutual funds shall not be required to pay any distribution tax.

Residential Status

1. Citizenship check to prevail over domicile check

With a target to cover stateless person, it is proposed that an Indian Citizen, shall be deemed to be a resident of India for tax purposes, if he is not liable to tax in any other country or territory by reason of his domicile or residence.

2. Indian Citizens/ PIO stay in India restricted to 120 days instead of 182 days

One of the condition, to check the residential status of an individual in India, is that his period of stay in India should be more than 60 days. However, in case of an Indian Citizen or a person of Indian origin, the Income-tax Act provides relaxation of up to 182 days for residency check.

To curb the misuse of the said relaxation, the exception provided for Indian Citizen or a person of Indian origin, in clause (b) of Explanation 1 of section 6(1) is proposed to be decreased to 120 days from existing 182 days.

3. Non-Ordinarily Resident redefined

A person is said to be “not ordinarily resident” in India in any previous year, if such person is:

- a) an individual who has been a non-resident in India in 7 out of the 10 previous years preceding that year; or
- b) a HUF whose manager has been a non-resident in India in seven out of the ten previous years preceding that year.

Assessment & Appeals

1. Expansion of e-assessment scheme

The scope of e-Assessment is proposed to be extended, so as to include the proceedings under Section 144 of the Act relating to best judgement assessment.

2. Reference to Dispute Resolution Panel (DRP)

Eligible assessee for making a reference to DRP shall include a Non-resident as well. It is proposed that any variation done by the AO which is prejudicial to the interest of the assessee (even if there is no impact on profits/losses) can be referred to DRP.

3. Faceless appeal is proposed up to CIT(A)

In order to achieve the motto of faceless assessment at CIT(A) level, an appellate system with dynamic jurisdiction, in which appeal shall be disposed of by one or more Commissioner (Appeals), has been proposed. The Central Govt. may notify the scheme in this regard by 31-03-2022.

4. Approval of CIT/Director is required to conduct Survey

Power of survey has been proposed to be rationalized as under:

- a) Where some information has been received from the prescribed authority, no Income-tax authority below the rank of Joint Director or Joint Commissioner shall conduct any survey without prior approval of the Joint Director or the Joint Commissioner;

- b) In any other case, no survey should be done by a Joint Director or a Joint Commissioner or an Assistant Director or a Deputy Director or an Assessing Officer or a Tax Recovery Officer or an Inspector of Income-tax without obtaining the approval of the Director or the Commissioner.

5. No stay by ITAT unless 20% of the disputed tax is deposited

It is proposed to provide that stay under the first proviso to section 254(2A) shouldn't be provided by ITAT unless assessee deposits or furnish security for atleast 20% of the amount of tax, interest, fee, penalty, or any other sum payable under the provisions of this Act.

Further stay under second provision to section 254(2A) can only be granted on an application made by the assessee, if the delay in not disposing of the appeal is not attributable to the assessee and the assessee has deposited 20% of the amount of tax, interest, fee, penalty, or any other sum payable under the provisions of this Act. The total stay granted by ITAT cannot exceed 365 days.

6. New e-Penalty scheme is proposed to be notified

The Central Government may notify an e-scheme for the purposes of imposing penalty so as to impart greater efficiency, transparency and accountability. In this scheme the interface between the Assessing Officer and the assessee in the course of proceedings shall be eliminated to the extent it is feasible technically.

7. Insolvency Professionals can act as “authorized representative”

Section 288 is proposed to be amended to provide that Insolvency Professional can appear before any Income-tax Authority or the Appellate Tribunal on behalf of an assessee as its “authorized representative”.

8. Curb against fake GST invoices

Finance Bill 2020 has proposed to extend the time limit for approval of affordable housing project for availing deduction under section 80-IBA. The period of approval of the project by the competent authority is proposed to be extended to 31-03-2021. Earlier, the project was required to be approved by the competent authority during the period from 01-06-2016 to 31-03-2020.

Business Income

1. Increase threshold limit for Tax Audit

The threshold limit for getting the accounts audited is proposed to be increased from Rs. 1 crore to Rs. 5 crores provided cash receipt or payment does not exceed 5% of total receipt or payment, as the case may be.

2. Rationalization of provisions of Section 35AD

An assessee, who is engaged in the specified business, is allowed to claim deduction of capital expenditure under section 35AD. At present, an assessee does not have any option of not availing the incentive under the said section. The Finance Bill has proposed to make deduction under section 35AD optional.

Return of Income

1. Due date for filing of return

The due date for filing of return by the companies and the persons who are required to get their accounts audited has been extended from September 30 to October 31 of the Assessment Year.

2. Non-residents not to File ITR in respect of income from Royalty and FTS

Exemption to file a return of income has been proposed to be extended to the non-residents earning income from Royalty and FTS provided taxes have been withheld from payment of such income.

Capital Gains

1. FMV of property purchased before 01-4-2001 shall not exceed stamp duty value

If the land or building is purchased before 01-4-2001, the fair market value as on that date can be taken as cost of acquisition of such property as per existing provisions of the Act. It has been proposed that such fair market value can't exceed the stamp duty value of the property as on 01-04-2001.

2. Safe limit of 5% increased to 10%

Safe limit of 5% under Section 43CA, 50C and 56 has been extended to 10%. These provisions shall not apply if the stamp duty value of an immovable property does not exceed 10% of the consideration or Rs. 50,000, whichever is higher.

TDS & TCS

1. Fees for technical services shall be subject to 2% TDS under Section 194J

Tax under Section 194J in case of fees for technical services (other than professional services) shall be proposed to be deducted at the rate of 2% (previously it was 10%). The TDS rate in other cases including fees for professional services shall remain same.

2. No withholding of tax at the time of ESOP's are allotted to the employee

Deduction of tax from perquisite arising on the allotment of shares, under ESOP to an employee of a Start-up, shall be proposed to be made at the time of happening of any of the following events:

- a) On expiry of 4 year from the end of the Assessment year in which ESOP are exercised;
- b) At the time the employee leaves the organization; or
- c) At the time of sale of shares allotted under ESOP.

3. E-commerce transaction now subject to 1% TDS

In order to widen and deepen the tax net by bringing participants of e-commerce within tax net, the Finance Bill has proposed that E-commerce operator shall deduct tax at the rate of 1% from sale done by the participant through their platforms.

4. Amendment in the definition of ‘work’ under section 194C

Section 194C provides for deduction of tax from payment to a resident person for carrying out any “work”. The definition of work has been proposed to be amended to provide that if any product is supplied or manufactured according to requirements of the customer, it shall fall under the category of ‘work’ even if raw material is supplied by the associated enterprise of such customer.

5. Relaxations in Section 194LC

Section 194LC of the Act provides for a concessional deduction of tax at 5% by a specified company or a business trust, on interest paid to non-residents. The period of said concession deduction has been proposed to be extended to 01-07-2023 from 01-07-2020. Further, the rate of TDS been reduced to 4% on interest payment against borrowings through issues of long-term bonds and RDB which are listed only on a recognized stock exchange in any IFSC.

6. Relaxations in Section 194LD

Section 194LD of the Act provides for lower TDS of 5% in case of interest payments to Foreign Institutional Investors (FII) and Qualified Foreign Investors (QFIs) on their investment in Government securities and Rupee Denominated Bonds of an Indian company. It has been proposed to extend the period of concessional TDS of 5% to 01-07-2023 from existing 01-07-2020. Further, the concessional rate of TDS of 5% under the said section shall also apply on the interest payable to an FII or QFI in respect of the investment made in municipal debt security.

7. Scope of TCS widened

The scope of TCS is proposed to be extended to overseas remittance, sale of overseas tour package and sale of goods.

8. Certain co-operative society also requires to adhere to withholding tax provisions

The Finance Bill proposed that a co-operative society having gross receipts or turnover exceeding Rs.50 crore in the previous financial year is also required to deduct tax from interest if it exceeds Rs. 50,000 in case of a senior citizen and Rs. 40,000 in other cases.

Deductions and Exemptions

1. Cross-checking of donation

Section 80G is proposed to be amended to provide that entities receiving donation shall be required to file a statement of the donation received and shall issue a certificate to donor. The mechanism shall be similar to TDS/TCS.

2. Withdrawal of exemption for UPSC Chairman and CEC

Various exemptions are provided to Union Public Services Commission (UPSC) Chairman & members including retired Chairman & members and Chief Election Commissioner (CEC) & Election Commissioners in respect of certain perquisites or allowances under section 10(45) of the Income-tax Act and Section 8 of the Election Commission (Conditions of Service of Election Commissioners and Transaction of Business) Act, 1991. These exemptions are proposed to be withdrawn.

3. Exemption to a wholly-owned subsidiary of ADIA and Sovereign Wealth Fund

A new clause is proposed to be inserted in Section 10 of the Income-tax Act to provide an exemption to a wholly-owned subsidiary of the Abu Dhabi Investment Authority (ADIA), which is a resident of the United Arab Emirates (UAE) and which makes investment, directly or indirectly, out of the fund owned by the Government of the United Arab Emirates and a sovereign wealth fund.

4. Exemption to ISPRL

A new clause is proposed to be inserted in section 10 to provide an exemption in respect of income accruing or arising to Indian Strategic Petroleum Reserves Limited (ISPRL), being a wholly-owned subsidiary of Oil Industry Development Board under the Ministry of Petroleum and Natural Gas.

5. Extension under section 80-IBA

Finance Bill 2020 has proposed to extend the time limit for approval of affordable housing project for availing deduction under section 80-IBA. The period of approval of the project by the competent authority is proposed to be extended to 31-03-2021. Earlier, the project was required to be approved by the competent authority during the period from 01-06-2016 to 31-03-2020.

6. Extension of time limit for sanctioning of loan under Section 80EEA

Section 80EEA was introduced vide Finance (No. 2) Act 2019 to provide a deduction for the interest on loan taken to buy an affordable residential house property. One of the conditions to claim this deduction is that loan should be sanctioned by the financial institution during the period from 01-04-2019 to 31-03-2020. The period of sanctioning of loan by the financial institution is proposed to be extended to 31-03-2021.

7. Rationalization of taxation of start-ups

Section 80-IAC has been proposed to be amended to provide that deduction to an eligible start-up shall be available for a period of 3 consecutive assessment years out of 10 years. Earlier, this deduction was available for 3 consecutive financial years out of first 7 years. Further, the turnover limit for claiming such exemption has been proposed to raised to Rs. 100 crore which was earlier Rs. 25 crore.

Others

1. Modification in conditions for offshore funds

Section 9A of the Act provides for a special regime in respect of offshore funds by providing them exemption from creating a “business connection” in India on fulfilment of certain conditions. It has been proposed that certain conditions for offshore funds shall be relaxed.

2. Limitation on deduction of interest

Section 94B provides for the restriction on deduction of interest payment made by the Indian company or a permanent establishment of the foreign company in India to its Associated Enterprise abroad. Finance bill proposed that provisions of interest limitation would not apply to interest paid in respect of a debt issued by a lender which is a PE of a non-resident, being a person engaged in the business of banking, in India.

3. Scope of Carry forward in case of amalgamation has been widened

The scope of the provision which allows carrying forward of losses or depreciation in certain amalgamations of banks and the insurance company has been proposed to be extended in order to facilitate recent government bank and insurance companies mergers /amalgamations.

4. Listing requirement of business trust on stock exchange has been relaxed

The Finance Bill 2020 has proposed that Business Trusts will not be required to get listed on a recognized stock exchange for availing the benefit of pass-through allowed under section 115UA.

5. Scope of advance pricing agreement and Safe Harbor Rule widened

It has been proposed that assessee can seek advance pricing agreement (APA) or SHR in respect of the determination of attribution of profits to PE.

6. Proposed Dispute Resolution Scheme “Vivad Se Vishwas”

In the last budget, the “Sabka Vishwas Scheme” was launched, resulting into settling of more than 189,000 cases. Under the proposed “Vivad Se Vishwas Scheme”, taxpayer would be required to pay only the amount of the disputed tax and get a complete waiver of interest and penalty, provided the tax is paid by 31 March 2020.

The Scheme will remain open till 30 June 2020. Those paying after 31 March 2020, will have to pay some additional amount. Taxpayers in whose cases appeals are pending at any level can benefit from this scheme.

About Parikh & Associates

Parikh & Associates, Chartered Accountants is Chartered Accountancy Firm Registered with The Institute of Chartered Accountants of India (ICAI). We are the team of young and energetic professionals having experience in diversified areas of the industry with a positive approach to provide expert and professional services with due care of professional ethics.

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